

207 CMR 3.00: LICENSING

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3.01: General Provisions

(1) All applications, reports, written statements and amendments filed with or prepared by the issuing authority under 207 CMR 3.00 that are public records under Massachusetts law shall be made available for public inspection in the town clerk's office of the issuing authority during regular business hours and for reproduction at a reasonable fee. The applicant shall also file copies of any application(s) and amendments with the Commission.

(2) For the purposes of 207 CMR 3.00, the number of residents of each city or town shall be determined from the most recent official federal census figures.

(3) The issuing authority may appoint a public advisory committee and define its duties. In carrying out their duties, advisory committee members shall not participate in any matters in a way which would violate the Massachusetts conflict of interest law, M.G.L. c. 268A.

(4) Public notice in accordance with 207 CMR 2.02 shall be provided for any public hearing required to be held by the issuing authority under 207 CMR 3.00.

(5) With respect to all public hearings held by the issuing authority under 207 CMR 3.00, the issuing authority shall provide for a stenographic, video or other tape record of the hearing(s). The issuing authority may choose the recording methodology. The applicant shall bear the cost of the recording.

3.02: Initiation of Licensing Process

(1) The licensing process may be initiated by any of the following actions:

(a) A decision by the issuing authority to begin the licensing process.

(b) The filing with the issuing authority of an application form prescribed by the Commission pursuant to M.G.L. c. 90A, § 4.

(c) The filing with the issuing authority of a petition signed by registered voters of the issuing authority requesting to begin the licensing process. A petition shall be valid when signed by as many registered voters as equals one percent of the residents of the issuing authority, except that the number of required signatures shall not be more than 100.

(2) No later than 60 days after an application or a voters' petition is filed, the issuing authority shall decide whether the licensing process shall be undertaken. Before making such decision and after notice as required by 207 CMR 2.02, the issuing authority shall hold a public hearing.

issuing authority shall hold a public hearing. The issuing authority shall afford any applicant, petitioner, resident or interested party a full and fair opportunity to be heard. If more than one initiative is filed before the hearing, an additional initiative shall be considered during the scheduled hearing.

(3) If, after the hearing described in 207 CMR 3.02(2), the issuing authority declines to undertake the licensing process, it shall promptly issue a written report containing the specific reasons for its decision. Within seven days of the report, the issuing authority shall forward copies of the report to the Commission, to each license applicant and to the incumbent cable licensee(s), if any. For the purposes of M.G.L. c. 166A, § 14, the report shall be deemed a denial of any applications pending before the issuing authority.

(4) If the issuing authority elects to proceed with the licensing process, it shall approve or deny each application within six months from the date it decides to do so under 207 CMR 3.02(2).

3.03: Formal Licensing Procedure

(1) If the issuing authority elects to undertake the licensing process under 207 CMR 3.02(2) it shall promptly:

- (a) Notify the Commission of the date that the licensing process was initiated; and
- (b) Solicit applications for a cable license or licenses and specify a filing deadline for such applications.

(2) License applications shall be solicited by publication of a notice in a newspaper of general circulation in the town soliciting the applications at least once in each of two successive weeks, the first publication being not less than 60 days before the filing deadline for receipt of applications. Such notice shall also be published not less than 60 days before the filing deadline in one trade journal selected from a listing on file with the Commission. No applications shall be accepted after the issuing authority's final deadline for applications has passed.

(3) Within 90 days of the application filing deadline under 207 CMR 3.03(1)(b), the issuing authority shall issue a report that includes specifications for the cable license as it deems appropriate. Within seven days after its report is issued, the issuing authority shall forward copies of the report to each applicant of record and to the Commission and shall set a deadline for receipt of amendments to applications. No applicant shall materially amend its application after the deadline for receipt of amendments.

(4) After issuing its report under 207 CMR 3.03(3), and after notice as required by 207 CMR 2.02, the issuing authority shall hold a public hearing to assess the qualifications of each applicant. Assessment of applicant qualifications shall be limited to the information provided in the applications on file, any amendments to such applications, the issuing authority's report on license specifications, oral testimony given during the hearing and other relevant information included in the hearing record.

(5) Within 60 days following the close of the hearing the issuing authority shall approve or deny each application. If the issuing authority shall grant a provisional license to any successful applicant and shall issue a written public statement containing in detail the reasons for the approval or denial of each application. The issuing authority shall send a copy of such statement to each applicant of record.

(6) The provisional license shall be executed within three months of the issuing authority's vote to award the license. It shall be valid for a period no longer than one year, by which time the provisional licensee must have met the requirements set forth in 207 CMR 3.04(1). The provisional license shall expire upon the issuance of a final license or one year from the date of execution of the provisional license, whichever occurs first.

(7) Within seven days of the issuance of the public statement regarding the approval or denial of license application, the issuing authority shall file copies of the following documents with the Commission:

- (a) The issuing authority statement prepared pursuant to 207 CMR 3.03(5); and
- (b) The provisional license, if one has been granted.

(8) No provisional license or any rights thereunder shall be transferred, assigned, or disposed of in any manner or involuntarily, either directly, indirectly, or by transfer or assignment of control by any entity holding such license. "Transfer or assignment of control" shall be defined in accordance with 207 CMR 4.00.

(9) Actual construction of physical facilities for a cable system may not commence prior to the grant of a final license pursuant to 207 CMR 3.04.

3.04: Grant of Final License

(1) A final license to construct and operate a cable system shall be granted by the issuing authority following compliance with each of the following requirements:

- (a) The submission requirements contained in the application form prescribed by the Commission, pursuant to M.G.L. c. 166A, § 4; and
- (b) The requirements of M.G.L. c. 166A, §§ 3, 4 and 5.

(2) A final license shall contain terms substantially identical with the terms contained in the provisional license. Notwithstanding the foregoing, a final license may contain terms differing from those in the provisional license if the issuing authority, in the public statement required by 207 CMR 3.04(4), sets forth in detail its reasons for acceptance or alteration of those terms.

(3) In the event the issuing authority finds that there has been a failure to comply with the provisions of 207 CMR 3.04(1), the issuing authority shall deny a final license to the provisional licensee and shall issue a written statement setting forth in detail the basis for such finding and denial. A copy of the statement shall be sent to the provisional licensee and to the Commission.

(4) The issuing authority shall grant a final license to an approved applicant and shall issue a written public statement containing in detail the reasons for granting the approval, including, where applicable, the reasons for acceptance or alteration of the terms of the provisional license. A copy of the statement shall be sent to the licensee.

(5) Within seven days of the grant of a final license, the issuing authority shall file copies of the following documents with the Commission:

- (a) the final license;
- (b) the written statement issued pursuant to 207 CMR 3.04(4); and
- (c) the completed application form prescribed by the Commission pursuant to M.G.L. c. 166A, § 4.

(6) If the issuing authority denies the final license, it may recommence the licensing process at any time. If the applicant requests, within a reasonable time after the issuance of the public statement under 207 CMR 3.04(3), the issuing authority shall request a waiver for an abbreviated licensing process in accordance with 207 CMR 2.04.

3.05: License Renewal Procedures

- (1) The renewal of a license to operate a cable television system shall be in accordance with the federal license renewal statute, 47 U.S.C. § 546. 3.05, 3.06 and 3.09 shall supplement the federal license renewal statute.
- (2) All license renewal applicants shall complete the application form prescribed by the Commission pursuant to 166A, § 4.
- (3) No license renewal may be granted or denied without a prior public hearing with prior public notice pursuant to CMR 2.02.
- (4) The issuing authority shall notify the license applicant in writing of the date of the completion of ascertainment proceedings conducted pursuant to 47 U.S.C. § 546(a).
- (5) The issuing authority's preliminary decision to deny renewal shall be made in writing and shall include the reasons for denial.

3.06: License Renewal Grant or Denial

- (1) Concurrent with the grant of a renewal license, the issuing authority shall issue a written public statement detailing the reasons for the license grant and detailing the reasons for it, including but not limited to the applicant's substantial compliance with the provisions set forth in 47 U.S.C. § 546(c)(1)(A) through (D). Those provisions are as follows:
 - (a) The cable operator has substantially complied with the material terms of the existing franchise and with the conditions of the license;
 - (b) The quality of the operator's service, including signal quality, response to consumer complaints, and bill of materials, but without regard to the mix or quality of cable services or other services provided over the system, has been satisfactory in light of community needs;
 - (c) The operator has the financial, legal and technical ability to provide the services, facilities and equipment proposed in the operator's proposal; and
 - (d) The operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.
- (2) Within seven days of the grant of a renewal license, the issuing authority shall file copies of the following with the Commission:
 - (a) The issuing authority statement prepared pursuant to 207 CMR 3.06(1); and
 - (b) The renewal license.
- (3) Should the issuing authority deny a renewal application, within 14 days of its decision to deny, it shall issue a statement detailing the reasons for its denial, specifically addressing the criteria set forth in 207 CMR 3.06(1)(d). The issuing authority shall file a copy of this statement with the license renewal applicant and with the Commission upon issuance.

3.07: Request for Amendment

- (1) Notice. When an issuing authority and a licensee propose to amend a final license, the issuing authority shall publish notice of the same to be published in a newspaper of general circulation in the city or town to be affected by the amendment. The notice shall include a concise summary of each amendment sufficient to identify its subject matter. Publication shall be made not less than 14 days before the commencement of the public comment period pursuant to 207 CMR 3.07(1)(b).

CMR 3.07(3). If there is no newspaper in such city or town, notice shall be posted in a conspicuous place in town hall for a period not less than 30 days preceding the commencement of the public comment period. The publishing this notice shall be borne equally by the issuing authority and the licensee.

Within any area served by an operating cable system and having cablecasting facilities within the control of operator, the licensee shall cablecast a concise summary of any proposed amendment(s) sufficient to identify matter at least once daily on each of eight days preceding the commencement of the public comment period. shall be cablecast at times most likely to reach the maximum viewing audience. If the cablecasting facilities the control of the cable operator, the operator shall use its best efforts to cablecast the prescribed notice.

(2) Report on Request for Amendment. Coincident with publication of notice of any proposed amendment, authority shall make available to the public in the city or town clerk's office a written report, prepared by the authority and cable licensee, which shall:

(a) Identify the licensee, the full text of the proposed amendment, and the purpose for which the requested a being made;

(b) State the date the request for amendment was received by the issuing authority;

(c) Describe the probable effect(s) of the proposed amendment on consumers and any other concerned parti

(3) The public shall be afforded a reasonable opportunity to provide input on the proposed amendment durin comment period of at least 21 days in duration held prior to the issuing authority's final decision on the adop requested amendment.

(4) The proposed amendment shall be adopted if the issuing authority and the licensee so determine within a period following the close of the public comment period.

(5) Within ten days of adopting a license amendment, the issuing authority shall issue a written public repor the reasons for its decision. Upon issuance of its report, the issuing authority shall forward copies of the rep amended license to the Commission.

(6) Nothing shall prevent an issuing authority and a licensee from requesting or adopting more than one ame time pursuant to the provisions of 207 CMR 3.07.

3.08: Complaint Provisions

Any person aggrieved by the action of the issuing authority in amending a final license pursuant to 207 CMR 3.07 may file a complaint in writing with the Commission within 30 days of the adoption of the amendment. Commission may, at its direction, initiate an investigation of the issuing authority's action and hold hearings giving due notice to all parties.

If, after investigation and hearing, the Commission approves the issuing authority's action, it shall iss the issuing authority to that effect. If the Commission disapproves, it shall issue a decision in writing advisi authority of the reasons for its decision and the issuing authority shall conform with the decision.

3.09: Rights of Appeal

(1) Appeals to the Commission by aggrieved parties seeking an initial or renewal license pursuant to 207 CMR shall be initiated in accordance with the provisions of M.G.L. c. 166A, § 14. The following parties shall have stan

to the Commission:

- (a) An applicant for an initial license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.02(3) or 3.03(5) or by the failure of an issuing authority to make a decision within 60 days of the hearing pursuant to 207 CMR 3.03(4); or
- (b) An applicant for a license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.04(3); or
- (c) An applicant for a renewal license aggrieved by a denial of its application by the issuing authority pursuant to 207 CMR 3.06(3).

(2) The Commission may, after a hearing conducted pursuant to M.G.L. c. 166A, § 14, issue such order as it deems appropriate to carry out the purpose of 207 CMR 3.00.

REGULATORY AUTHORITY

207 CMR 3.00: M.G.L. c. 166A, §§ 4, 13 and 16.